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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,457	08/29/2003	Scott K. Middelstadt	2340-66754	8757
7590	11/17/2004		EXAMINER	
KLARQUIST SPARKMAN, LLP			GRAY, LINDA LAMEY	
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Suite 1600			ART UNIT	PAPER NUMBER
121 S.W. Salmon Street			1734	
Portland, OR 97204			DATE MAILED: 11/17/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	10/651,457	MIDDELSTADT ET AL.
	Examiner Linda L Gray	Art Unit 1734

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 2-27-04, 8-29-03, and 6-28-04.  
 2a) This action is **FINAL**.                    2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-12 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-12 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 29 August 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date \*\*\*

4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

**Detailed Action**

**Specification**

1. The specification is objected to because of the following informality: the status of the parent application 09/843,005 should be updated to include that the application is abandoned.

**Claim Rejections - 35 USC § 102**

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless – (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claim 8 is rejected under 35 U.S.C. 102(b) as being anticipated by Durber (EP 2143802).**

**Claim 8**, Durber teaches a method for feeding web material 26 onto a plurality of individual carton blanks 36 including **(a)** continuously introducing a web material onto vacuum roll 56, **(b)** cutting the web material on roll 56 to form a lengths of web material 26, and **(c)** continuously applying each material 26 onto blanks 36. Durber teaches that cutting is controlled using variable speed drive 52 in that drive 52 controls the feeding of the strip material to the cutting operation, and the position of material 26 is placed on the correct position of substrate 36.

4. **Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Helm (US 3,957,570).**

**Claim 1**, Helm teaches a method for feeding web material 10 onto substrate 12 including **(a)** introducing web material 16 onto vacuum roll 24', **(b)** advancing material 16 onto at least a portion of a foraminous peripheral surface of roll 24', **(c)** cutting material 16 after it has advanced on the portion of the surface to form lengths of web material 10, and **(d)** introducing material 10

onto vacuum wheel applicator 28' (29' also) for advancing onto substrate 12 (c 5, L 46, to c 6, L 18; para bridging c 4-5).

**Claim 3**, Helm demonstrates in Figure 14 as well as Figures 7-10 (embodiment 1) that web 16 is upon roll 24' for a given peripheral degree which is shown to be 180 degrees (Figure 7 specifically).

**5. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Doderer-Winkler (US 5,429,576).**

**Claim 1**, Doderer-Winkle teaches a method for feeding web material 16 onto substrate 12 including **(a)** introducing web material 42 onto vacuum roll 68, **(b)** advancing material 42 onto at least a portion of a foraminous peripheral surface of roll 68, **(c)** cutting material 42 after it has advanced on the portion of the surface to form lengths of web material 16, and **(d)** introducing material 16 onto vacuum wheel applicator 74 (c 7, L 52-63) for advancing onto substrate 12.

**Claim 5**, Doderer-Winkle teaches feeding material 16 onto a plurality of substrates 12 (Fig 1). Doderer-Winkle teaches controlling the timing of each cutting of material 16 at column 6, lines 41-48, by controlling the speed of the cutters such that the desired length of tape is advanced for the proper material 16 length. In turn, proper registration of the specific length of a particular cut material 16 with substrate 12 is provided using this length, the spacing between the cuts, speed of roll 74, and the speed of substrates 12 (c 8, L 11-27).

**6. Claims 1, 4, and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Kimball (US4,589,943).**

**Claim 1**, Kimball et al. teach a method for feeding web material 78 onto substrate 12 including **(a)** introducing web material 78 onto vacuum roll 94, **(b)** advancing material 78 onto at least a portion of a foraminous peripheral surface of roll 94, **(c)** cutting material 78 after (c 15, L 3-13, especially L 11-13) it has advanced on the portion of the surface to form lengths of web material 10, and **(d)** introducing material 10 onto vacuum wheel applicator 96 (c 5, L 34, to c 15, L 13) for advancing onto substrate 12.

**Claim 4**, Kimball et al. teach heater 148 to activate an adhesive on materials 10 (i.e., tape) as materials 10 advance on roller 96 (c 11, L 31-40).

**Claim 5**, Kimball et al. teach feeding material 10 onto a plurality of substrates 12 (Fig 2). Kimball et al. teach controlling the timing of each cutting of material 10 (c 12, L 60, to c 13, L 3; c 13, L 64 to c 14, L 8) via misalignment switch 1LS which de-energizes K2 and K3, thus opening K2-1 and K2-2 and halting motor 152 that controls cutter 92.

**7. Claims 1 and 3 are rejected under 35 U.S.C. 102(b) as being anticipated by Pohjola (US 5,224,405).**

**Claim 1**, Pohjola teaches a method for feeding web material 20 onto substrate 14 including **(a)** introducing web material 12 onto vacuum roll 32, **(b)** advancing material 12 onto at least a portion of a foraminous peripheral surface of roll 328, **(c)** cutting material 12 after it has advanced on the portion of the surface to form lengths of web material 20 and **(d)** introducing material 20 onto a vacuum wheel applicator for advancing onto substrate 14 (c 2, L 40, to c 7).

**Claim 3**, Pohjola demonstrates in Figure 1 that web 12 is upon roll 32 for a given peripheral degree which is shown to be 180 degrees.

**Claim Rejections - 35 USC § 103**

**8.** The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

**9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Doderer-Winkler.**

**Claim 3**, Doderer-Winkler teaches advancing material 42 over roll 68 but does not indicate to what degree, i.e., 90 to 200 degrees.

However, MPEP § 2144.05 indicates that where the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation, *In re Aller*, 220 F.2d 454, 105 U.S.P.Q. 233, 235 (CCPA 1955), and it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Doderer-Winkler optimization of the degree of advancement over the roller.

**10. Claims 1, 5-7, 8, 10-11, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Macdonald et al. (US 3,986,440) in view of Durber.**

**Claim 8**, Macdonald et al. teach a method for feeding a web material onto a plurality of individual carton blanks A including **(a)** continuously introducing web material B onto applicator roll 74, **(b)** cutting material B while it is on roll 74 to form a lengths of web material, and **(c)** continuously applying each length onto blanks A. Macdonald et al. teaches controlling the timing of each cutting of material B so as to register the position of each length with a predetermined location for each length on each blank A. Specifically, see column 7 of the reference, last paragraph.

***Claim 8**, Macdonald et al. do not teach applicator roll 74 to be a vacuum roll but uses guard 79 to keep the cut length in the correct position.*

However, vacuum applicator rollers are conventionally used in the art of applying cut lengths of material to continuously moving substrates, such as in Durber, as an alternative to an outside guard such as guard 60 in Durber.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Macdonald that applicator roll 74 be a vacuum roll over using guard 79 to keep the cut lengths in the correct position because vacuum applicator rollers are conventionally used in the art of applying cut lengths of material to continuously moving substrates, such as in Durber, as an alternative to an outside guard such as guard 60 in Durber

where in Macdonald et al. a vacuum would also keep the tail end of the cut lengths tightly against roll 74 such that it does not deviate during application to blanks A.

**Claims 10 and 11,** Macdonald et al. teach identifying the predetermined location which is the leading edge of blank A (c 7, L 34-36) and sending this information to various controllers to control the cutting (c 7, L 36-50).

**Claim 12,** Macdonald et al. do not teach changing the length of the cut pieces according to the various lengths of blanks A.

However, it is conventional to allow for the length of cut pieces of web to change according to the length of a substrate to which the cut length is applied in that such allows for versatility in labeling different sized substrates instead of merely one, and for this reason it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Macdonald et al. the ability to change the length of the cut pieces according to various lengths of blanks A.

**Claim 1,** Macdonald et al. teach a method for feeding a web material onto a plurality of individual carton blanks A including **(a)** introducing web material B roll 73, **(b)** advancing material B onto at least a portion of a foraminous peripheral surface of roll 73 (Fig 73), **(c)** cutting material B after it has advanced onto the portion to form lengths of web material, and **(d)** introducing the lengths onto applicator roll 74 for advancing onto substrates A.

**Claim 1,** Macdonald et al. do not teach applicator roll 74 to be a vacuum roll but uses guard 79 to keep the cut length in the correct position and does not teach roll 73 to be a vacuum roll.

However, vacuum applicator rollers are conventionally used in the art of applying cut lengths of material to continuously moving substrates, such as in Durber, as an alternative to an outside guard such as guard 60 in Durber. Also, vacuum rollers are conventionally used in the art to hold webs thereagainst as the webs pass thereover, such as material B against roll 73 as such passes thereover.

It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Macdonald that applicator roll 74 be a vacuum roll over using guard

79 to keep the cut lengths in the correct position because vacuum applicator rollers are conventionally used in the art of applying cut lengths of material to continuously moving substrates, such as in Durber, as an alternative to an outside guard such as guard 60 in Durber where in Macdonald et al. a vacuum would also keep the tail end of the cut lengths tightly against roll 74 such that it does not deviate during application to blanks A.

Also, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have provided in Macdonald that roll 73 be a vacuum roll as is conventionally used in the art to hold webs thereagainst as the webs pass thereover, such as material B against roll 73 as such passes thereover, such that material B does not deviate away from roller 73 when roller 82 disengages.

**Claim 5**, Macdonald et al. teaches controlling the timing of each cutting of material B so as to register the position of each length with a predetermined location for each length on each blank A. Specifically, see column 7 of the reference, last paragraph. **Claims 6 and 7**, Macdonald et al. teach identifying the predetermined location which is the leading edge of blank A (c 7, L 34-36) and sending this information to various controllers to control the cutting (c 7, L 36-50).

**Allowable Subject Matter**

**11. Claims 2 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.**

**12.** The following is a statement of reasons for the indication of allowable subject matter: **claims 2 and 9:** the prior art of record does not teach cutting the substrates after the lengths of web material is introduced onto the substrate so that the web material forms a cutting edge.

**13.** As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

**Art of Record**

**14.** The following prior art is made of record: Bergstein (US 2,628,179) teaches cutting a continuous carton-web-material longitudinally after a continuous cutter-web is applied thereto to form a cutting edge and also teaches forming carton blanks from the bonded materials via cutting.

**Conclusion**

**15.** Inquiry concerning this communication or earlier communications from the examiner should be directed to Linda Gray whose telephone number is (571) 272-1228. The examiner can normally be reached Monday-Friday from 9:00 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Fiorilla, can be reached at (571) 272-1187. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

llg *llg*  
November 15, 2004

*Linda D. Gray*  
LINDA GRAY  
PRIMARY EXAMINER